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TAGS: EINV ECON USTR KIDE NU
SUBJECT: NICARAGUA: GON TO REVIEW PAST PROPERTY CLAIMS DECISIONS

REF: A) 07 MANAGUA 2581, B) 07 MANAGUA 2615, C) 07 MANAGUA 2442, D)
07 MANAGUA 2324, E) 07 MANAGUA 2494, F) 07 MANAGUA 0002

SUMMARY

¶1. (SBU) The December 20 monthly Working Property Group meeting confirmed that the Attorney General plans to reduce the number of outstanding property claims as quickly as possible and that dismissing claims is the preferred method to accomplish this goal. We believe that we further convinced GON officials of the seriousness with which we take U.S. citizen claims and of our full intention to follow through on all potential dismissals. On a positive note, GON officials told us that they are reviewing the 12 claims we highlighted during September and November working group meetings involving properties that government entities control.

FRANK DISCUSSION WITHOUT SUPERINTENDENT PEREZ

¶2. (SBU) During the December 20 monthly Working Group meeting, Econoffs met with three officials from the National Confiscations Review Commission (CNRC), and two officials from the Office of Assessment and Indemnification (OCI), to clarify the Government of Nicaragua's (GON) administrative process to dismiss 18 U.S. citizen claims as "no ha lugar" (Refs A and B). The fact that Property Superintendent Yara Perez did not attend gave us our first opportunity to explore the views of her often silent colleagues and clarify what they were doing to implement changes in policy.

ATTORNEY GENERAL TO DISMISS CASES

¶3. (SBU) It is becoming clear to us that the Attorney General plans to reduce the number of outstanding property claims as quickly as possible and that dismissing claims is his preferred method to accomplish this goal. As part of his responsibility to safeguard the nation's economic resources, GON officials explained, the Attorney General will exercise his authority to dismiss claims that do not meet a new threshold for proof of ownership and/or expropriation.

GON RAISES THE THRESHOLD TO PROVE OWNERSHIP

¶4. (SBU) To increase the number of claims that the Attorney General may consider for dismissal, the GON has raised the threshold for proof of ownership and/or expropriation. Claimants must now produce the original title or cadastral records, according to one OCI official. Proof of payment associated with property ownership, such

as utility or tax receipts, are no longer enough. Moreover, the Attorney General may review and dismiss claims at any time prior to final settlement -- and may even dismiss a claim for which the government has already negotiated, but not consummated, a settlement.

NEW THRESHOLD STRICTER THAN REQUIRED BY LAW

¶ 15. (SBU) Econoffs requested a formal explanation of the Attorney General's authority to dismiss claims and challenged setting the threshold for proof of ownership and/or expropriation so high. The new standard is much stricter than what is required by law and clearly disadvantages some claimants. We argued that Nicaraguan law provides for considerable flexibility when it comes to furnishing proof of ownership. In many instances, property titles and cadastral records were lost or destroyed when the country drifted from revolution into civil war during the 1980s. This was the decade in which the government confiscated some 30,000 properties as part of nationalization and land redistribution campaigns, often by employing questionable legal practices and creating documents that conferred the same property right to more than one party.

¶ 16. (SBU) Comment: We are not satisfied with the explanation that has been presented to us. We believe that for claimants who have waited ten years to have their cases considered, unilateral and administrative dismissal based on recently raised thresholds for proof is unfair. Moreover, claimants have only 15 days to appeal the Attorney General's decision to dismiss their claims. We will continue to advocate that the government take a more flexible approach. End Comment.

SOME NOT SO REASSURING VERBAL ASSURANCES

¶ 17. (SBU) A CNRC official assured Econoffs that the Embassy would be afforded sufficient time to contact U.S. claimants before their cases were dismissed. GON officials also assured us that U.S. claimants would be given the opportunity to provide additional evidence of ownership and expropriation to strengthen their claims. When we asked whether the GON had begun notifying claimants that their cases had been dismissed, an OCI official replied that this was a subject that the Attorney General would discuss with the Ambassador. Begin comment: We are not reassured by these verbal statements. We will follow any developments related to U.S. claimants very closely and will not take any dismissals lightly. The Ambassador has already raised the issue with Attorney General Estrada (Ref F), and will continue to do so. End comment.

PROGRESS ON CLAIMS INVOLVING GOVERNMENT AGENCIES

¶ 18. (SBU) On a positive note, GON officials told us that they are reviewing the 12 claims we highlighted during September and November working group meetings (Refs A and D). These involve properties controlled by the Nicaraguan Army, the Ministry of Interior, and Jalapa City Police. GON officials presented detailed updates on each and told us that they wanted to resolve these claims as soon as possible. Econoff observed that settling these claims would contribute to meeting two out of three benchmarks set by Secretary Rice in her July 31, 2007, letter to Foreign Minister Santos regarding Section 527 and goals for this waiver year.

COMMENT

¶ 19. (SBU) The absence of Property Superintendent Yara Perez allowed us to communicate freely with other GON officials and to discuss in-depth U.S. citizen claims under GON control. We have been seeking separate working level meetings on a regular basis that would serve this purpose, but have been consistently rebuffed by Attorney General Estrada and Superintendent Perez.

¶ 10. (SBU) While confirming the intentions of the Attorney General to dismiss cases was not the intended result of the meeting, we were prepared for that outcome. We believe that during the course of the meeting, we further convinced GON officials of the seriousness with which we take U.S. citizen claims, and our full intention to follow

through on all potential dismissals. Indeed, we have completed the first round of a campaign to contact all U.S. citizen claimants to inform them of the Nicaraguan Government's policy changes and the need to contact the Property Superintendent to make sure that their files are accurate and complete. As of January 25, we have sent 296 of 308 letters. Almost immediately, we began receiving responses.

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